THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO.18279 OF 2007

DATED 28-08-2007

Between:

M/s Hindustan Zinc Limited …Petitioner

And

The Assistant Commissioner and
Another …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND

THE HON'BLE SRI JUSTICE S.ANANDA REDDY

WRIT PETITION NO.18279 OF 2007

O R D E R (Per the Hon'ble Sri Justice Bilal Nazki):

During the pendency of the first appeal, stay application moved by the petitioner before the appropriate authority was rejected. He moved this Court by way of a writ petition being W.P.No.24663 of 2003 and this Court, while disposing of the writ petition, ordered stay on payment of Rs.20 lakhs. Now the first appeal has been rejected and the petitioner, aggrieved by the same, filed second appeal before the Sales Tax Appellate Tribunal. Learned counsel for the petitioner submits that as the Tribunal has no powers to grant stay, he has approached this Court by way of this writ petition seeking a direction to restrain the Department from taking any coercive steps for recovery of the disputed tax pending disposal of the appeal before the Tribunal.

Since the matter is pending for a long time, after hearing learned counsel for the parties, we feel that the interest of justice would be met if stay of recovery is granted, pending appeal, subject to deposit of 50 per cent of the disputed tax. Therefore, we dispose of the writ petition with a direction that 25 per cent of the disputed tax shall be paid by the petitioner within a period of four weeks from today and another 25 per cent of the disputed tax shall be paid by him in four weeks thereafter. For four weeks, there shall be an unconditional stay

of recovery and the stay of recovery shall continue till disposal of the appeal, provided the amount is deposited within the time as stipulated above. The deposit of amount shall be without prejudice to the rights of the petitioner in the appeal. However, if the petitioner has already paid any amount towards the disputed tax, while calculating the 50 per cent amount, the amounts already paid by the petitioner shall be given credit to.

The writ petition is accordingly disposed of. No costs.

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Bilal Nazki, J

Dated 28th August, 2007

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S.Ananda Reddy, J

Note:Issue wire at party's cost
(b/o)
vrn